

# THE PERSONHOOD MASTER KEY

How a Forgotten Roman Law Distinction  
Can Restore American Democracy

A New Framework for Understanding and Overturning *Citizens United*

# OUR FOUNDATIONAL ERROR AND THE PATH TO CORRECTION



## 1. THE CONSEQUENCE: THE DEMOCRATIC EXECUTION GAP

Fifteen years after *Citizens United*, a torrent of corporate and billionaire spending has created a gap between the principle of “one person, one vote” and the reality of a political system dominated by concentrated wealth.



## 2. THE MECHANISM: A LEGAL CATEGORY ERROR

The problem is not simply money; it’s a flawed legal premise. The Supreme Court made a fundamental category error, conflating a corporation’s economic function with a citizen’s political status.



## 3. THE SOLUTION: THE PERSONHOOD MASTER KEY

Roman law provides the precise vocabulary to diagnose this error. By distinguishing economic capacity (*capacitas*) from political citizenship (*civitas*), we gain an intellectually sound framework to restore democratic balance.



## A SYSTEM OVERWHELMED: THE DEMOCRATIC EXECUTION GAP

The principle of political equality cannot coexist with the reality of unlimited, concentrated spending. This is not a theoretical problem; it is a measurable crisis.

# THE VOICE OF THE FEW IS DROWNING OUT THE MANY

**\$2.6  
BILLION**

Poured into the 2024 elections by just **100 billionaire donors**, making up nearly 20% of total spending.

*(Source: Roosevelt Institute)*

**160x**

Increase in billionaire election spending since 2010, the vast majority through channels opened by *Citizens United*.

*(Source: Roosevelt Institute)*

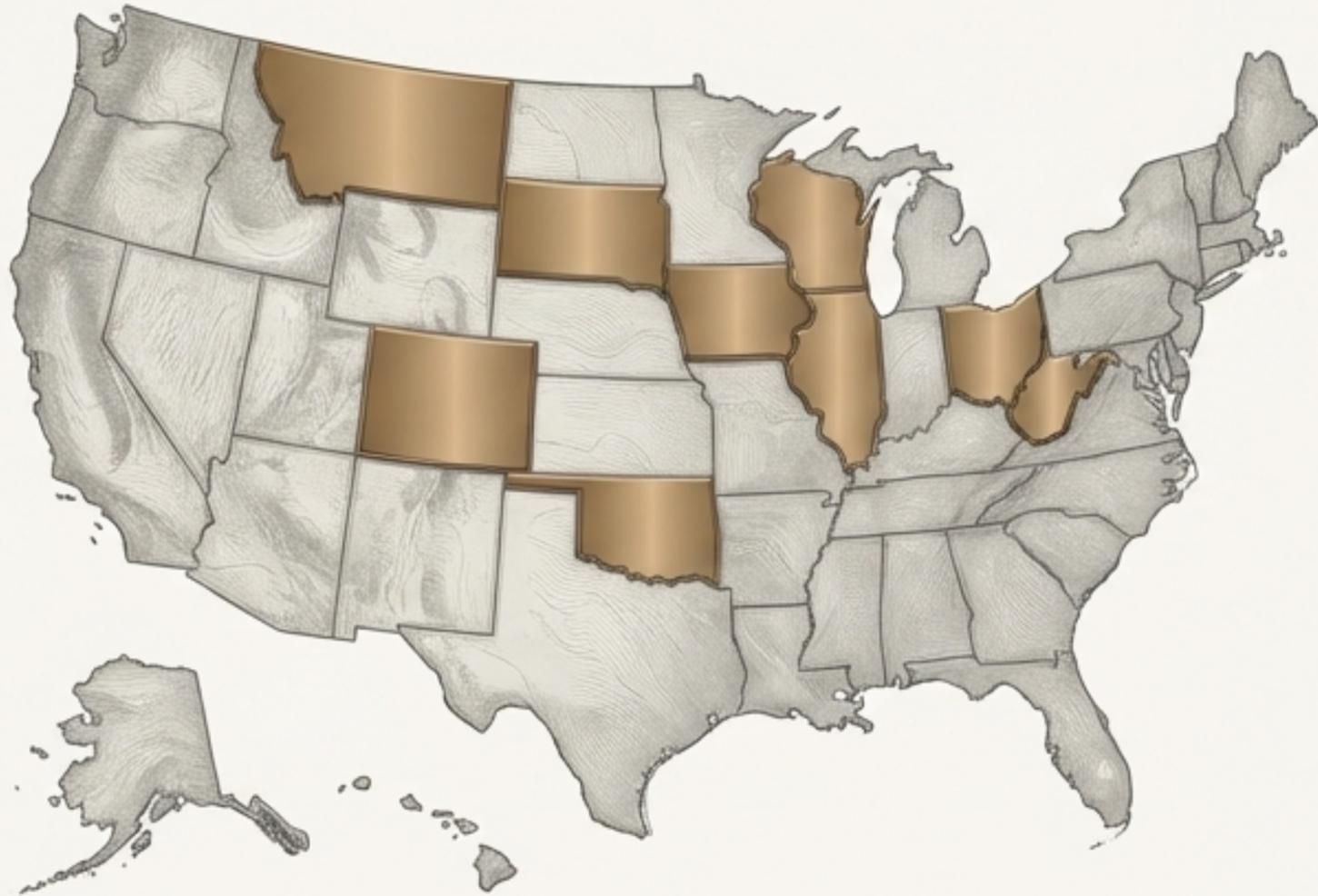
**1 DONOR  
vs.  
3 MILLION**

In 2024, one billionaire's contributions (\$290M) equaled the combined combined donations of **3 million small donors**.

*(Source: Roosevelt Institute)*

# MONEY DOESN'T JUST TALK; IT LEGISLATES.

In states where spending bans were overturned by Citizens United, a natural experiment revealed the consequences:



- **Pro-Corporate Policy:** Corporate tax rates were cut by 4-8% and business-friendly tort laws were passed, with no corresponding change in unrelated policies.



- **Political Representation Shifts:** GOP candidates' success jumped by 4-11 percentage points, shifting state governments to the right without a corresponding shift in voter ideology.



- **Weakened Institutions:** These same states enacted more extreme gerrymandering and intensified barriers to voting.

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**Conclusion:** Unlimited spending directly correlates with policy outcomes that favor capital over citizens.

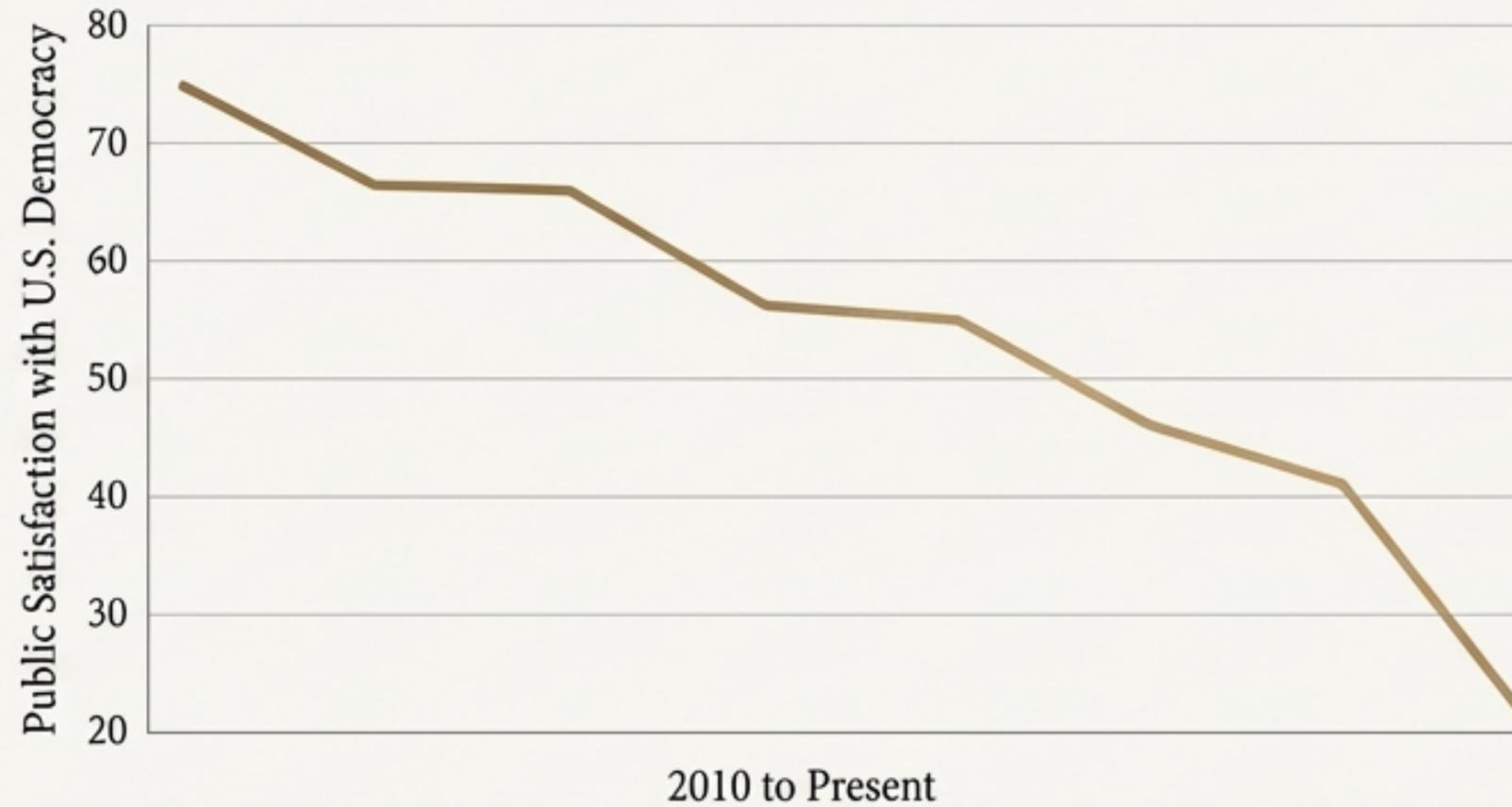
(Source: Roosevelt Institute)

# THE “APPEARANCE OF CORRUPTION” IS NOW THE OVERWHELMING REALITY

“80%

of Americans believe donors have too much sway in Congress.”

(Source: Pew Research Center)



“92%

agree that Congress prioritizes the interests of big outside spenders.”

(Source: Poll, 2021)

“**Flawed Democracy**” The U.S. rating from the Economist Intelligence Unit, citing the influence of money in politics.

**Key Insight:** The Supreme Court’s claim that independent spending poses no risk of an “appearance of corruption” has been empirically disproven. The public overwhelmingly perceives a “government-for-sale.”

# THE DIAGNOSIS IS IN: THE PUBLIC WANTS A CURE

There is a clear, bipartisan consensus that the system is broken and needs fundamental reform.

- **Three-fourths of Americans**—including 66% of Republicans and 85% of Democrats—support a constitutional amendment to overturn *Citizens United*.
- **88% of all Americans** want to reduce the influence of large campaign donors.



## The Question:

**If the public mandate is so clear, why have our solutions fallen short?**

\*(Source: University of Maryland / Voice of the People)

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# WE ARE FIGHTING THE WRONG BATTLE

Our current strategies focus on managing the *flow of money*:

1. **Overturn *Citizens United* via Amendment:** A direct, popular approach.
2. **Publicly Finance Elections:** Reduce reliance on big donors.
3. **Build an Anti-Oligarchy Coalition:** Link campaign finance to broader economic reforms.

**The *Inherent Weakness*:** These are vital goals, but they don't don't address the core legal logic that created the problem. They fight the last war's battles without dismantling the weapon that allows a new war to begin. As long as the '*personhood error*' remains, capital will find a new way to speak.

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# THE CENTRAL FLAW IS NOT FINANCIAL. IT IS PHILOSOPHICAL.

The *Citizens United* decision rests on a century of legal precedent that has gradually and incorrectly expanded the concept of "legal personhood."

The court equated a corporation—an artificial entity created for economic purposes—with a natural person, granting it the political rights of a citizen.

This was a **category error** of historic proportions.

To correct it, we need a more precise vocabulary—one that allows us to distinguish between different *types* of legal capacity.



## REDISCOVERING THE DIAGNOSTIC TOOLS OF ROMAN LAW.

Roman jurisprudence, the bedrock of Western law, never treated “personhood” as a monolithic concept. It used a brilliant system of distinctions to allocate rights and duties with precision.

- **Persona**: The legal “mask” or role one plays in a given context (e.g., father, trustee, senator).
- **Caput**: Legal status or standing. This determined one’s fundamental position in the legal and social order.
- **Universitas**: A legal entity, a collection of individuals (like a corporation), recognized in law. It had rights, but they were not identical to those of a natural person.

This framework is our “**master key**.” It allows us to **unlock the two** crucial capacities the Supreme Court conflated.

# SEPARATING POLITICAL STATUS FROM ECONOMIC FUNCTION



## *CIVITAS*

Political Citizenship

**What it is:** The status of being a member of the polity. The right to participate in self-government.

**Who holds it:** Natural persons. Citizens.

**Its purpose:** To ensure democratic legitimacy and protect individual liberty.

**Modern Analogy:** First Amendment rights of speech, assembly, and political participation.



## *CAPACITAS*

Economic Capacity

**What it is:** The ability to act economically. The right to own property, make contracts, sue and be sued.

**Who holds it:** Natural persons **and** artificial entities (*universitas*).

**Its purpose:** To facilitate commerce and manage collective assets.

**Modern Analogy:** Corporate rights to engage in business and enforce contracts.

The fatal error of *Citizens United* was allowing *capacitas* to be treated as *civitas*.



**CAPACITAS**  
(Economic Capacity)

**CIVITAS**  
(Political Citizenship)

## How *Citizens United* Created a Structural Bypass for Wealth

### The Ruling's Flawed Logic:

1. It saw a corporation's use of its treasury funds for political ads as an act of "speech."
2. It therefore granted this economic act the full protection of the First Amendment—a right of **political citizenship** (*civitas*).
3. In doing so, it created a loophole where pooled capital (**economic capacity** / *capacitas*) could directly enter the political arena, bypassing the filters designed for natural persons.

**The corporation's "right to speak" is a function of its capital, not its citizenship.**



# A WORKING MODEL: HOW OTHER DEMOCRACIES PROTECT THE POLITICAL SPHERE

While the U.S. struggles, other mature democracies intuitively enforce the *civitas/capacitas* distinction.

## The French Model:

- **Ban on Corporate Donations:** Legal persons (corporations, unions) **are banned** from financing political parties or candidates. Their economic capacity is legally walled off from the political sphere.
- **Ban on Foreign Donations:** Only natural persons can contribute, reinforcing the link between political participation and citizenship.
- **Strict Individual Limits:** Donations from natural persons are capped at €7,500 per year to parties and €4,600 per election to candidates.

**Insight:** France's system is a functional application of the Roman principle. It recognizes that the *persona* of a corporation is purely economic and has no legitimate role in the sphere of *civitas*.

(Source: *European Public Accountability Mechanisms*)

# REBUILDING THE WALL BETWEEN ECONOMIC POWER AND POLITICAL RIGHT

## Why the Master Key Makes This Bulletproof:

"Distinguish between natural persons and... artificial entities": This clause is a direct implementation of the Roman framework. It grants constitutional authority to treat a corporation's *capacitas* differently from a citizen's *civitas*.

## The Democracy For All Amendment (Proposed Text):

"[Congress and the States] may regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections... [and] may **distinguish between natural persons and corporations or other artificial entities created by law...**"

## Defends Against "Money is Speech" Attacks:

It reframes the argument. The issue is not censoring speech, but allocating rights based on the *status (caput)* of the speaker. An artificial entity created for commerce does not possess the same legal status as a citizen in the political sphere.



# BEYOND AMENDMENTS: SMARTER REGULATION THROUGH A CLEARER LENS

The *civitas/capacitas* framework also sharpens our approach to statutory reform.



## 1. Tighten Donation Permissibility (UK Model)

**Problem:** U.S. law allows corporate donations based on mere registration, a potential loophole.

**Framework Solution:** The UK's Committee on Standards in Public Life proposes that corporate donations only come from **profits generated in the UK**. This links the economic act to the national economic sphere, reinforcing the *capacitas* boundary.



## 2. Redefine 'Coordination'

**Problem:** The line between 'independent' Super PACs and campaigns is functionally meaningless.

**Framework Solution:** If a Super PAC is funded by corporate treasuries (*capacitas*), its activity is fundamentally economic. Any coordination with a political campaign (*civitas*) is an illegitimate breach and should be treated as a direct (and illegal) corporate contribution.



## 3. Enhance Digital Transparency

**Problem:** Opaque digital spending by non-party groups.

**Framework Solution:** Require platforms to distinguish between ads paid for by natural persons (*civitas*) and those by artificial entities (*capacitas*), providing voters a clear signal about the nature of the 'speaker.'



## THE FUTURE WE CAN BUILD

By adopting the Personhood Master Key, we move beyond a futile battle over spending limits and toward a fundamental restoration of our democratic principles.

This framework enables a future where:

- **Citizenship, not capital, is the basis of political power.** The rights of natural persons to self-government are paramount and protected.
- **Corporations are powerful economic engines, not pseudo-political citizens.** Their *capacitas* is respected in the marketplace, but it does not grant them a seat at the governing table.
- **Public trust is rebuilt** on the clear and visible principle that our democracy is a conversation among citizens, not an auction for the wealthy.

# WIELDING THE KEY

This framework is a tool. Its power lies in its use.



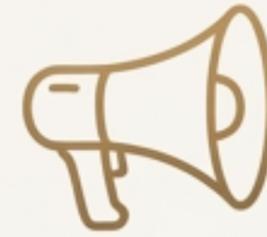
## FOR LEGAL SCHOLARS & ADVOCATES:

- Integrate  
Integrate the *civitas/capacitas* distinction into amicus briefs and law review articles.
- **Re-litigate** the definition of “personhood.”



## FOR POLICYMAKERS & LEGISLATORS:

- Use this robust framework to draft and defend a constitutional amendment that cannot be easily dismantled.
- Incorporate this logic into **new regulations** on digital ads, coordination, and foreign influence.

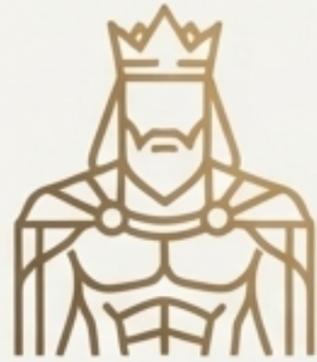


## FOR REFORM ORGANIZATIONS:

- **Educate** the public and activists on this deeper, more powerful argument.
- **Shift** the narrative from “too much money” to “the wrong kind of speaker.”

# APPENDIX: ANATOMY OF MEGADONOR INFLUENCE

A closer look at the motivations driving the surge in concentrated spending



## **The Oligarch (e.g., Elon Musk)**

Seeks to directly influence government policy and staffing to benefit a vast business empire. Views political spending as a direct exercise of power.



## **The Pragmatist (e.g., Ken Griffin)**

Focuses on electing business-oriented candidates to foster a favorable regulatory and economic climate. Views political spending as a strategic investment.



## **The Ideologue (e.g., Miriam Adelson)**

Driven by personal passion projects and specific policy goals not directly tied to their primary business. Views political spending as high-level advocacy.

\*(Source: CBS News Analysis)

# APPENDIX: A COMPARATIVE PERSPECTIVE ON REFORM

The UK's Committee on Standards in Public Life identifies key principles that align with the *civitas/capacitas* distinction.

## Principle of Fairness

'The outcome of an election should be based on the electorate freely choosing... Participation should not be limited to those with deep pockets.'

## Recommendation 3

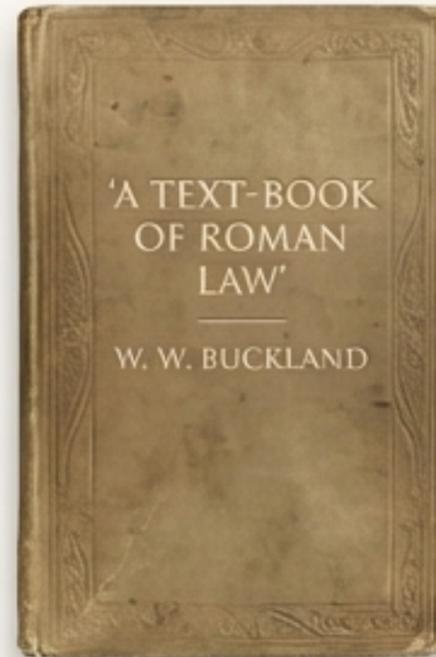
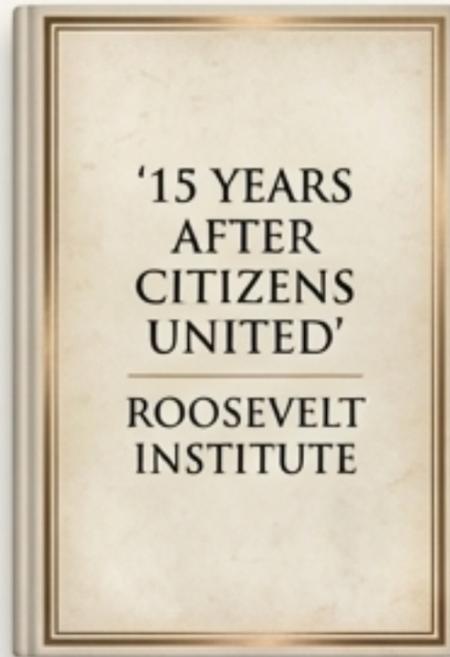
'[C]ompany donations should not exceed net profits after tax generated in the UK within the preceding two years.' (This links economic capacity to the national polity).

## Recommendation 17

'[T]he government should legislate to ban foreign organisations or individuals from buying campaign advertising in the UK.' (This explicitly walls off the national political debate).

*(Source: Regulating Election Finance, GOV.UK)*

# SOURCES & FURTHER READING



'15 Years After Citizens United: Big Money's Grip on Our Democracy' – **Roosevelt Institute**

'Dark Money' - **Brennan Center for Justice**

'Regulating Election Finance: A Review' - **UK Committee on Standards in Public Life**

'France Public Accountability Index' - **European Public Accountability Mechanisms**

Press Release on the Democracy for All Amendment - **Office of Rep. Mary Gay Scanlon**

'A Text-book of Roman Law from Augustus to Justinian' – **W. W. Buckland**

Related reporting from **CBS News** and **Public Radio International**



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